



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNSD, MNDC, MNR, OLC, FF

This hearing dealt with cross applications. The landlord is seeking a monetary order and an order to retain a portion of the security deposit in partial satisfaction of the claim. The tenant has filed an application seeking the return of the security deposit. Both parties attended the hearing and were given full opportunity to present evidence and make submissions. The parties acknowledged receipt of evidence submitted by the other and gave affirmed testimony.

Issue to be Decided

Is either party entitled to a monetary order as claimed?

Background, Evidence

The tenants' testimony is as follows. The tenancy began on July 1, 2013 and ended on June 30, 2015. The tenants were obligated to pay \$1400.00 per month in rent in advance and at the outset of the tenancy the tenants paid a \$700.00 security deposit. The tenant stated that she e-mailed her forwarding address to the landlords at some point but wasn't sure when. The tenant stated that she did not agree to have the landlord retain any of her deposit. The tenant stated that she does acknowledge that she was responsible for paying the monthly propane bill but felt that since the tank was 30% full when she moved out, she was justified in not paying that month's bill.

The landlord gave the following testimony. The landlord stated that the tenant did not provide their forwarding address in writing as required and that they couldn't remember if she had ever e-mailed it. The landlord stated that the tenant did not pay the last month's propane bill of \$515.31. The landlords stated that they wish to retain that amount from the deposit.

Analysis

Section 88 of the Act addresses the issue of providing a forwarding address as follows.

88 All documents, other than those referred to in section 89 [*special rules for certain documents*], that are required or permitted under this Act to be given to or served on a person must be given or served in one of the following ways:

- (a) by leaving a copy with the person;
- (b) if the person is a landlord, by leaving a copy with an agent of the landlord;
- (c) by sending a copy by ordinary mail or registered mail to the address at which the person resides or, if the person is a landlord, to the address at which the person carries on business as a landlord;

The tenant stated that she e-mailed her forwarding address to the landlords but did not provide the date as to when that was done or a copy for this hearing. Accordingly; since the landlord was not properly served the tenants forwarding address as required, the doubling provision of deposits, pursuant to Section 38 of the Act is not available to the tenant.

In the tenants own testimony she acknowledged that she was responsible for the propane costs as per their verbal tenancy agreement. The tenant stated "I don't think I should have to pay if the tank was 30 percent full". Based on the tenants' testimony and the supporting documentation from the landlord, I find that the tenant is responsible for the last month's propane bill from her tenancy and that the landlords are entitled to retain \$515.31 from the deposit.

The landlord is also entitled to retain \$50.00 from the deposit for the recovery of the filing fee for this hearing.

The tenant is entitled to the return of the balance of the security deposit.

Conclusion

The landlord has established a claim for \$565.31. I order that the landlord retain that amount from the deposit in full satisfaction of the claim. The landlord is to return the remaining \$134.69 back to the tenant. I grant the tenant an order under section 67 for the balance due of \$134.69. This order may be filed in the Small Claims Court and enforced as an order of that Court.

This decision is made on authority delegated to me by the Director of the Residential Tenancy Branch under Section 9.1(1) of the *Residential Tenancy Act*.

Dated: January 06, 2016

Residential Tenancy Branch

